

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kaitlin Campbell	Team: Squad #13	CCRB Case #: 201703516	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 04/27/2017 8:50 PM	Location of Incident: Intersection of Court Street and Warren Street; 76th Precinct stationhouse	Precinct: 76	18 Mo. SOL 10/27/2018	EO SOL 10/27/2018	
Date/Time CV Reported Thu, 04/27/2017 10:08 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/04/2017 11:58 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Elio Ponzo	04140	944904	076 PCT
2. LT Nicholas Corrado	00000	943105	076 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Richard Lynn	22156	954082	076 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Elio Ponzo	Abuse: Sergeant Elio Ponzo threatened to arrest § 87(2)(b) at the intersection of Court Street and Warren Street in Brooklyn.	
B.LT Nicholas Corrado	Abuse: Lieutenant Nicholas Corrado did not process § 87(2)(b)'s complaint regarding an officer at the 76th Precinct stationhouse.	

Case Summary

On April 27, 2017, § 87(2)(b) called the NYPD Internal Affairs Bureau (IAB) and filed this complaint (original log #17-15590). A spinoff was generated (#2017-16066) and received at the CCRB on May 4, 2017.

On April 27, 2017, at approximately 9:30 p.m. § 87(2)(b) was driving alone on Court Street in Brooklyn when he got into a road dispute with the driver of another car that contained three passengers. § 87(2)(b) pulled over at the intersection of Court Street and Warren Street and exited his car to argue with the driver and passengers of another car, all of whom had also pulled over and exited their car. The driver pushed § 87(2)(b) repeatedly and a passenger took § 87(2)(b)'s keys out of his ignition. § 87(2)(b) called 911 to report that the other driver was driving drunk, that he hit him with his car, and hit him with his hand; five other people in the vicinity called 911, and officers were dispatched to the location to respond to an assault in progress (Board Review 05). Sergeant Elio Ponzo of the 76th Precinct and Police Officer Richard Lynn arrived shortly after. § 87(2)(b) “went crazy” gesticulating and began to describe to Sgt. Ponzo what the driver did to him. Sgt. Ponzo took hold of § 87(2)(b)'s wrists, pulled his arms down, squeezed his wrists for about a minute, and told him to calm down. Sgt. Ponzo and PO Lynn spoke with both parties for a total of about ten minutes, determined no assault took place, and asked everyone to disperse. § 87(2)(b) protested the officers’ decision, and Sgt. Ponzo asked him if he wanted him to “arrest [him and the occupants of the other car] right now” (**Allegation A**). The officers left the scene.

After calling 911 to file a complaint against the officers and leaving a voicemail message with IAB, § 87(2)(b) drove to the 76th Precinct stationhouse, went inside, and asked a police administrative aide to speak with the highest ranking officer there. Sgt. Ponzo interrupted § 87(2)(b) and they argued with each other. Lieutenant Nicholas Corrado led § 87(2)(b) out of the stationhouse. § 87(2)(b) asked Lt. Corrado whether he could file a complaint inside and Lt. Corrado told him he could not (**Allegation B**).

Video footage was obtained from a bystander named § 87(2)(b) who filmed § 87(2)(b)'s interaction with the occupants of the other car prior to the officers’ arrival with his smartphone and emailed the videos to § 87(2)(b). It is presented fully across SnagIt01 – SnagIt 04 below (Board Reviews 01-04).



snagit01.mp4



snagit02.mp4



snagit03.mp4



snagit04.mp4

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation after it was offered to him on the phone and in person.
- § 87(2)(b)
- An email notification from the NYC Comptroller’s office received on June 28, 2017 confirmed that no notice of claim was filed in relation to this incident.

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first complaint with the CCRB.
- Over the course of his nine-year tenure with the NYPD, Sgt. Ponzo has been the subject officer in four allegations across three CCRB complaints. Two of those allegations were exonerated and two were unsubstantiated. Other than an allegation that Sgt. Ponzo threatened to “throw [the complainant] and [her complaint reports] the fuck out” of the stationhouse, § 87(2)(g).
- Over the course of his 20-year tenure with the NYPD, Lt. Corrado has been the subject officer in six allegations across three CCRB complaints. § 87(2)(g). Of the four fully investigated allegations, two were exonerated, was one unfounded, one unsubstantiated, and one—a refusal to process a civilian complaint—unfounded. § 87(2)(g).

Potential Issues

No contact information or identification information was provided for the three occupants of the other car except for a license plate number read to a 911 dispatcher from a third party caller. The investigation searched all possible combinations of this license plate number through LexisNexis and called every 911 caller who provided their number for more information but was ultimately unable to obtain contact information for the three individuals.

Findings and Recommendations

Allegation A – Abuse of Authority: Sergeant Elio Ponzo threatened to arrest § 87(2)(b) at the intersection of Court Street and Warren Street in Brooklyn.

According to § 87(2)(b) Sgt. Ponzo said to him and the three other individuals: “Do you want me to arrest the four of you right now?” but § 87(2)(b) was not consistent across his statements as to when Sgt. Ponzo said this. § 87(2)(b) ultimately said Sgt. Ponzo and PO Lynn spoke with the other party briefly and told them to get in their car and leave. § 87(2)(b) stated he “[went] crazy” gesticulating, asked the officers “how” they could have let them go, told the officers they were drunk, and asked them to conduct an alcohol test on everyone there. The three people got in their their car “very quickly,” and drove away. PO Lynn viewed § 87(2)(b)'s videos of the incident and told § 87(2)(b) the actions of the other driver did not constitute assault. § 87(2)(b) told PO Lynn he did not know what assault was and PO Lynn said it was when someone is punched in the face.

According to § 87(2)(b) he was drawn to the commotion on the street from inside § 87(2)(b) pizzeria. He saw § 87(2)(b) standing in front of the other car, preventing them from driving away and then saw those occupants exit the car and try to hit § 87(2)(b). § 87(2)(b) began to film to deter them from hitting him and stopped filming when the officers arrived.

Of the approximate two-and-a-half-minutes video footage taken by § 87(2)(b) the 58-second excerpt in Snagit 05 depicts what appears to be the apex of the conflict between § 87(2)(b) and the three individuals of the other party (**Board Review 07**)(**Board Review 06**).



snagit05.mp4

§ 87(2)(b) bald, wearing glasses and a vest—faces the other party’s car—to the left of the frame. He moves around a man with brown hair in a blue sweatshirt and a blonde woman in an olive jacket wearing glasses who walk toward him away from a car. § 87(2)(b) stands directly in front of the car and spreads his arms and § 87(2)(b) falls on the hood. The driver of the car, a man with white hair exits the car as the man in blue tries to push § 87(2)(b) off the hood; the woman grabs § 87(2)(b)’s arm and then accuses him of hitting her. § 87(2)(b) denies it and she, along with the man in blue yell, pointing their fingers at § 87(2)(b) and push him away from the car. § 87(2)(b) periodically puts his cell phone to his ear and walks backwards. A woman standing on the sidewalk appears yells for them to stop or calm down. § 87(2)(b) follows them with his camera and a panorama of the opposite sidewalk reveals about seven people watching the incident. § 87(2)(b) moves around the man in blue and the woman to stand in front of their car; they follow him and the woman yells repeatedly “why would you stand in front of our car?” § 87(2)(b) hands a young man his cell phone, and the young man talks with who was determined to be the 911 dispatcher. § 87(2)(b) stands in front of a car shaking his head. The video cuts off.

According to Sgt. Ponzo, he and PO Lynn received a radio transmission reporting a dispute at Court Street and Warren Street in Brooklyn—a busy area with a lot of restaurants, boutiques, and shops that were open at the time. Upon arrival, Sgt. Ponzo saw § 87(2)(b) in the street with two men. § 87(2)(b) immediately approached and told Sgt. Ponzo they tried to hit him. Sgt. Ponzo spoke with the two men for about a minute, determined no physical assault took place, and told everyone to leave. Sgt. Ponzo said he could have arrested § 87(2)(b) for for filing a false police report and for disorderly conduct—because he was “creating an annoyance” in the middle of the sidewalk and “disturbing someone’s business.” Sgt. Ponzo told § 87(2)(b) when he saw him later at the stationhouse; he did not remember whether he told him this on the street. In his memo book Sgt. Ponzo logged the incident as a 10-52 (“Dispute”), recorded the disposition as 90Y (“Unnecessary”), and did not prepare any reports.

According to PO Lynn, the officers were waved down by someone on the street who directed them to Court Street and Warren Street because two men were fighting and on their way there they heard a radio call reporting a fight at that location. Upon arrival PO Lynn saw a crowd of about seven people and as he and Sgt. Ponzo exited the car four people—including § 87(2)(b) “bombarded” them and began talking at once. PO Lynn spoke with the man and woman involved while Sgt. Ponzo spoke with § 87(2)(b) who was “excited,” and “wiry”—walking around and gesticulating as he spoke. Neither the man nor woman wanted to file a report against § 87(2)(b) claimed he was assaulted. PO Lynn spoke to two independent witnesses, reviewed a smartphone video of the incident, and determined no assault had taken place; he told § 87(2)(b) that he was not describing an assault as defined in New York State and that if he continued to say he was assaulted, he could be arrested for making a false police report. PO Lynn did not remember Sgt. Ponzo having any conversation with § 87(2)(b) about making a false police report but remembered him say something to § 87(2)(b) about “being disorderly” when he lunged his hands at him. PO Lynn and Sgt. Ponzo asked everyone to leave; they complied and the officers left.

A person is guilty of falsely reporting an incident in the third degree when, knowing the information reported, conveyed or circulated to be false or baseless, he or she gratuitously reports to a law enforcement officer or agency (a) the alleged occurrence of an offense or incident which did not in fact occur (N.Y. Penal Law § 240.50).

A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof he engages in fighting or in violent, tumultuous or threatening behavior; he makes unreasonable noise; in a public place, he uses abusive or obscene language, or makes an obscene gesture; without lawful authority, he disturbs any lawful assembly or meeting of persons; he obstructs vehicular or pedestrian traffic; he congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or he creates a hazardous or physically offensive condition by any act which serves no legitimate purpose (N.Y. Penal Law § 240.20).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation B –Abuse of Authority: Lieutenant Nicholas Corrado did not process § 87(2)(b)s complaint regarding an officer at the 76th Precinct stationhouse.

§ 87(2)(b) said that after Sgt. Ponzo and PO Lynn left Court Street and Warrant Street he called 911 to file a complaint against them, was transferred to IAB, and left a voicemail message. After not receiving a call from IAB within ten minutes, § 87(2)(b) drove to the 76th Precinct stationhouse, went inside, asked to speak to the person in charge, and said he wanted to make a complaint against a police officer. Sgt. Ponzo approached him from behind and said “Oh so you’re going to report me?” and the two argued for about three minutes before Lt. Corrado took hold of § 87(2)(b)s arm firmly, asked him to step away from Sgt. Ponzo, and led him outside. Lt. Corrado told § 87(2)(b) to call the CCRB and pointed to a poster on the wall outside that included the CCRB’s number. § 87(2)(b) said he wanted to make a report right then at the stationhouse and Lt. Corrado told him he could not and went back inside. Shortly afterward, § 87(2)(b) received a call from IAB and filed this complaint; he did not call the CCRB because he was satisfied with how the officer from IAB treated him over the phone.

Lt. Corrado said when he asked § 87(2)(b) to leave the stationhouse and talk to him outside, § 87(2)(b) said “okay” and did so without Lt. Corrado needing to physically remove him. Outside, Lt. Corrado told § 87(2)(b) he could make a complaint there at the stationhouse, over the phone, or through e-mail. He suggested § 87(2)(b) go home and make the complaint over the phone and gave § 87(2)(b) the phone number for the CCRB. § 87(2)(b) told Lt. Corrado he would do that. He did not complain to Lt. Corrado he could not file a complaint at the stationhouse, and he willingly left.

Sgt. Ponzo did not hear § 87(2)(b) say to anyone he wanted to file a complaint against an officer and he could not speak to whether Lt. Corrado gave § 87(2)(b) the CCRB's contact information because he was not present for their interaction.

§ 87(2)(b), § 87(2)(g)
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Squad: 13

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date